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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/782,036	02/14/2001	Terence Martin Hinds	Q51544	8219

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EXAMINER	
MAKI, STEVEN D	

ART UNIT	PAPER NUMBER
1733	17

DATE MAILED: 11/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/782,036	Applicant(s) HINDS ET AL.	
	Examiner Steven D. Maki	Art Unit 1733	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *20 August 2003* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-5,8,10-23 and 25-32* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-5, 8, 10-23 and 25-32* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

1) The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2) Claims 1-5, 8, 10-23 and 25-32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, the relationship between the first substrate in claim 1 and the pair of belts in claim 1 remains unclear. Applicant traverses this rejection because the claim is merely broad. Applicant is incorrect. Claim 1 is not broad since claim 1 requires scattering the thermoplastic material onto a first substrate instead of a lower one of the belts. Claim 1 excludes the possibility of the first substrate being a lower belt since claim 1 separately recites "a first substrate" and "a pair of belts". Since (1) the literal language of claim 1 excludes the situation wherein the first substrate is one of the belts and (2) applicant argues that claim 1 encompasses both the configuration wherein the first substrate is one of the pair of belts and the configuration wherein the first substrate is part of the product, the meets and bounds of claim 1 cannot be determined.

In claims 15 and 16, the description of the thermoplastic material on the substrates being scattered is ambiguous. The thermoplastic material is scattered twice?

In claim 17, the description of "scattering a base-coat forming material as the thermoplastic material onto a saturation layer of the first substrate" is confusing and ambiguous. It is unclear if claim 17 requires an additional scattering step. If an additional scattering step is not being claimed, then it is unclear if the requirement in

claim 1 that powder, granules or pellets be scattered is being removed by claim 17. It is unclear if the saturation layer is the same as or in addition to the first coating.

As to claims 19 and 20, which do not describe the second substrate (is it one of the belts?), it is unclear how many belts are being claimed. As to claim 19, applicant submits that the step of "scattering a first thermoplastic material onto a first belt" clearly is subject matter in addition to that set forth in claim 1. Does this mean that claim 19 requires three belts (the first belt and the pair of belts)? As to claim 20, applicant argues that the pair of belts used in claim 20 may be the same or a different pair of belts as that set forth in claim 1. This argument is not persuasive since (1) claim 1 recites "leading the second substrate between a pair of belts" whereas claim 20 recites "leading the substrates between a pair of belts" and (2) applicant argues, as noted above, that one the substrates may be one of the pair of belts.

3) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4) **Claims 1-5, 10-23 and 25-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brinkmann et al in view of Takeuchi et al and Schermutzki and in view of Weaver et al and/or Bradshaw et al.**

Brinkman et al, Takeuchi et al, Schermutzki, Weaver and Bradshaw et al are applied as in paragraph 12 of the last office action (paragraph 12 of the last office action is incorporated herein by reference).

Applicant argues that Schermutzki fails to teach a step of scattering powder, granules or pellets of a thermoplastic material onto the second substrate, after the second substrate has been applied over the first coating. The examiner disagrees. In figure 4 for example, Schermutzki teaches a step of scattering thermoplastic powder from device 11d, after the second substrate (fiber mat 4) has been applied over the first coating (the coating formed by scattering thermoplastic powder on the first substrate (lower belt 2) from device 8. No unexpected results over the above applied prior art for the claimed sequence of steps has been shown.

With respect to applicant's arguments regarding Takeuchi, the examiner makes the following comments. Brinkman et al, directed to making a floor covering, teaches applying a second substrate (textile sheet) on the first substrate (the belt) and scattering thermoplastic material on one side of the textile sheet. Takeuchi et al, also directed to making a floor covering, provides ample suggestion to provide thermoplastic material on both sides of Brinkman et al's sheet since Takeuchi et al teaches that a sheet having thermoplastic material on both sides of a textile sheet is as an alternative to a textile sheet having thermoplastic material on one side (see figures 1, 2, col. 5 lines 58-68, col. 6 lines 11-15). Schermutzki, which like Brinkman et al discloses scattering thermoplastic material on one side of a second substrate (a textile sheet), motivates one of ordinary skill in the art to scatter thermoplastic material on Brinkman et al's belt before applying the textile sheet in order to obtain a textile sheet having thermoplastic material on both sides thereof. No unexpected results over the above applied prior art

for having thermoplastic material on both sides of the second substrate has been shown.

As to claim 32, the limitation regarding "contacting" the second substrate with the first coating would have been obvious in view of (a) Takeuchi et al's teaching to contact both sides of a textile sheet with thermoplastic material and (b) Schermutzki's teaching that the thermoplastic powder applying devices may be arranged such that thermoplastic material is scattered on a textile sheet using a device 11d after the textile sheet contacts a layer of thermoplastic on lower belt 2. No unexpected results over the above applied prior art for the claimed sequence of steps has been shown.

5) **Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brinkmann et al in view of Takeuchi et al and Schermutzki and in view of Weaver et al and/or Bradshaw et al as applied above and further in view of Meyer et al and Garbini et al.**

Meyer et al and Garbini et al are applied as in paragraph 13 of the last office action (paragraph 13 of the last office action is incorporated herein by reference).

6) **Claims 13-17 and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brinkmann et al in view of Takeuchi et al and Schermutzki and in view of Weaver et al and/or Bradshaw et al as applied above and further in view of the admitted prior art.**

The admitted prior art is applied as in paragraph 14 of the last office (paragraph 14 of the last office action is incorporated herein by reference).

Remarks

7) Applicant's arguments filed 8-20-03 have been fully considered but they are not persuasive.

The objection to the declaration has been withdrawn in view of (1) the Supplemental Application Data Sheet filed 8-20-03 and (2) applicant's corresponding comments filed 8-20-03.

The objection to the disclosure has been withdrawn in view of the amendments to the specification filed 8-20-03.

8) No claim is allowed.

9) Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven D. Maki whose telephone number is 703-308-2068. The examiner can normally be reached on Mon. - Fri. 7:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (703) 308-3853. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Steven D. Maki
November 2, 2003

Steven D. Maki 11-2-03
STEVEN D. MAKI
PRIMARY EXAMINER
~~GROUP 1300~~
Au 1733